

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Facility Need Review.Nursing Facilities, Beds
(LAC 48:I.12503)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt the following emergency rule for facility need review as authorized by R.S. 40:2116 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. Existing regulations providing for facility need review (LAC 48:I.12501–12505) were initially adopted on January 20, 1991, and were later repealed and repromulgated in the *Louisiana Register* on August 20, 1995, LR 21:806. These regulations include provisions for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either a facility specific exception for an area with high occupancy, or the replacement of a nursing facility that is structurally older than 25 years. The department proposes to repeal these provisions from the regulations providing for facility need review.

Data from *The Guide to the Nursing Home Industry*, 1995 by HCIA Inc. and Arthur Anderson LLP, indicates that sufficient nursing facility beds are available in Louisiana to serve the Medicaid population requiring this level of care. Nationally, the occupancy rate for nursing homes is about 91 percent, while in Louisiana the occupancy rate is about 87 percent. For beds per 1,000 persons age 65+ the national average is about 54.6, while in Louisiana it is at least 77 beds.

Costs incurred for the care of each Medicaid beneficiary are factored into the reimbursement rate for nursing facilities when these rates are rebased. Costs of additional unoccupied beds, including but not limited to capital and maintenance costs, will be absorbed into and increase rates for Medicaid beneficiaries filling occupied beds. If more beds are enrolled than needed, expenditures will increase beyond the amount necessary for providing required nursing facility care to the Medicaid population.

Effective April 9, 1996 the department adopted an emergency rule repealing those facility need review regulations which provide for the approval of additional nursing facility beds to enroll in the Title XIX Program based on either: 1) a facility specific exception for an area with high occupancy; or 2) the replacement of a nursing facility that is structurally older than 25 years. This rule was subsequently published in the *Louisiana Register* on May 20, 1995.

Title 48

PUBLIC HEALTH.GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12503. Determination of Bed Need

A.1.–6.d. ...

B. Nursing Facilities/Beds

1.–8. ...

9. In order for additional nursing facilities/beds to be added in a service area, the bed-to-population ratio for nursing facility beds shall not exceed 65 Medicaid approved beds per 1,000 elderly population in a service area, and average annual occupancy for the four most recent quarters as reported in the LTC–2 shall exceed 95 percent in the service area. An exception for areas with high occupancy is described below:

a. – a.vii. Repealed.

b. – b.xiii. ...

10.a. – 10.c. ...

11. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, LR 21:808 (August 1995), amended LR 22:

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821–9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on this proposed rule is scheduled for Tuesday, June 25, 1996 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access road, Baton Rouge, LA. At this time interested persons will be afforded an opportunity to submit data, views or

arguments, orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review Nursing Facilities/Beds**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only estimated implementation cost anticipated will be the cost for promulgation of the proposed rule. This cost is estimated to be \$260.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will have no effect upon revenue collections of either state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will have no effect upon costs and/or economic benefits in the near future since a moratorium on additional nursing facility bed approval takes effect July 1, 1996 and lasts until July 1, 1999. After the moratorium ends, a reduction in expenditures is anticipated based upon implementation of this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known impact on competition or employment because of the moratorium.

Thomas D. Collins
Director
9605#060

Richard W. England
Assistant to the
Legislative Fiscal Officer